IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.120 OF 2005

WITH

CIVIL APPLICATION NO.44 OF 2005

IN

WRIT PETITION NO.9910 OF 2004

Pooja P. Aggarwal & Ors. ..Appellants.

Vs.

South Indian Co-operative Bank Ltd. & Ors. ..Respondents.

....

Mr.Y.K.Sharma i/b M/s.Ganesh & Co. for the Appellants.

CORAM : A.P.SHAH &

DR.D.Y.CHANDRACHUD, J.

22nd July, 2005.

P.C. :

Heard counsel for the Appellant.

The case of the Appellant is that she is

the sole owner of the flat under attachment and the said flat was mortgaged to the Respondent bank by the husband of the Appellant without any authority. The objection raised by the Appellant has been considered and rejected by the Recovery Officer under Rule 107(19)(a) of the Maharashtra Co-operative Societies Rules, 1961. Under sub clause (c) of the same Rule the remedy of civil suit is provided to establish the right which an applicant is claiming to the property indispute. The Appellant is free to file a civil suit in accordance with sub-clause (c) for appropriate reliefs including the relief of restoration of possession.

All the rights and contentions are left open to the Parties.

The Appeal stands disposed of.

In view of the above order, Civil Application No.44 of 2005 also stands disposed of.